

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SIMMIONS et al.,

Plaintiffs,

ORDER
17-CV-3044 (FB) (CLP)

-against-

PIERLESS FISH CORP., et al.,

Defendants.

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POLLAK, United States Magistrate Judge:

On May 19, 2017, D’Eric Simmions and Gerald Coulter, individually and on behalf of all others similarly situated (collectively, “plaintiffs”), commenced the above captioned case against Pierless Fish Corp. and Robert DeMasco (“defendants”) alleging, inter alia, violations of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201 et seq., the New York Labor Law (“NYLL”), N.Y.Lab.Law. §§ 650, 195, and N.Y.Comp.Codes R. & Regs., tit. 12, § 137.1.7.

On September 14, 2017, an initial conference was held before the undersigned. Parties were directed to exchange informal discovery in preparation for mediation, and to submit a joint status letter by November 10, 2017.

On September 25, 2017, plaintiffs filed a motion (“Pls.’ Mot.”)¹ for a pre-motion conference requesting a temporary restraining order and preliminary injunction. The Honorable Frederic Block referred the motion to the undersigned on September 28, 2017.

Plaintiffs claim that Defendants are “retaliating against Mr. Simmions for initiating this action,” and, despite discussing this issue at the September 14, 2017 initial conference, “Defendants have continued, and ultimately escalated, their campaign of retaliation against Mr.

¹Citations to “Pls.’ Mot.” refer to the First Motion for Pre Motion Conference Requesting a Temporary Restraining Order and Preliminary Injunction, filed by plaintiffs on September 25, 2017.


Simmions by suspending him from his employment.” (Pls.’ Mot. at 1). Mr. Simmions claims that, apart from the most recent suspension, since initiating this action, his route has been changed sixteen (16) times; he has not been promoted to a Driver from a Driver Assistant, despite having the qualifications to do so; and he has been “unjustly written up.” (Id. at 2-3 (citing Simmions Decl.² 5, 6, 15)).

In light of the above, an evidentiary hearing on the temporary restraining order is set for **Friday, October 13, 2017 at 9:00 AM** at 225 Cadman Plaza East, Courtroom 13 B South, Brooklyn, NY 11201. Defense counsel is Ordered to appear with their clients, who should be prepared to testify. Plaintiff Simmions is also Ordered to appear. Additionally, while plaintiffs’ motion only alleges retaliatory actions taken with regard to plaintiff Simmions, if there are other plaintiffs who claim to have been similarly affected, they should appear in Court as well and be prepared to testify.

The Clerk is directed to send copies of this Order to the parties either electronically through the Electronic Case Filing (ECF) system or by mail.

SO ORDERED.

Dated: Brooklyn, New York
September 28, 2017

 /s/ Cheryl Pollak

Cheryl L. Pollak
United States Magistrate Judge
Eastern District of New York

²Citations to “Simmions Decl.” refer to Declaration of Plaintiff D’Eric Simmions, dated September 25, 2017 attached as Exhibit A to Pls.’ Mot.